

House File 499 - Introduced

HOUSE FILE _____
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 120)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to various matters under the purview of the
2 insurance division of the department of commerce including
3 workers' compensation self-insurance, premium taxes, the
4 uniform securities Act, powers and duties of the insurance
5 division, regulation of insurance sales to military personnel,
6 domestic insurance companies, life insurance companies,
7 nonprofit health service corporations, external review of
8 health care coverage decisions, investment limitations on
9 insurers other than life insurers, property and casualty
10 insurers' reserves, motor vehicle service contracts, county
11 and state mutual associations, reciprocal or interinsurance
12 contracts, licensing of insurance producers and public
13 adjusters, and life and fire insurance company boards of
14 directors, and providing penalties.
15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
16 TLSB 1235HV 82
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1 1 Section 1. Section 87.11, Code 2007, is amended to read as
1 2 follows:
1 3 87.11 RELIEF FROM INSURANCE == PROCEDURES UPON EMPLOYER'S
1 4 INSOLVENCY.
1 5 1. a. When an employer coming under this chapter
1 6 furnishes satisfactory proofs to the insurance commissioner of
1 7 such employer's solvency and financial ability to pay the
1 8 compensation and benefits as by law provided and to make such
1 9 payments to the parties when entitled thereto, or when such
1 10 employer deposits with the insurance commissioner security
1 11 satisfactory to the insurance commissioner as guaranty for the
1 12 payment of such compensation, such employer shall be relieved
1 13 of the provisions of this chapter requiring insurance; but
1 14 such employer shall, from time to time, furnish such
1 15 additional proof of solvency and financial ability to pay as
1 16 may be required by such insurance commissioner. Such security
1 17 shall be held in trust for the sole purpose of paying
1 18 compensation and benefits and is not subject to attachment,
1 19 levy, execution, garnishment, liens, or any other form of
1 20 encumbrance. However, the insurance commissioner shall be
1 21 reimbursed from the security for all costs and fees incurred
1 22 by the insurance commissioner in resolving disputes involving
1 23 the security. A political subdivision, including a city,
1 24 county, community college, or school corporation, that is
1 25 self-insured for workers' compensation is not required to
1 26 submit a plan or program to the insurance commissioner for
1 27 review and approval.
1 28 b. If an approved self-insured employer discontinues its
1 29 self-insured status or enters bankruptcy proceedings, the
1 30 self-insured employer or its successor in interest, may
1 31 petition the commissioner of insurance for release of its
1 32 security. The commissioner shall release the security upon a
1 33 finding of both of the following:
1 34 (1) The employer has not been self-insured pursuant to
1 35 this chapter for at least four years.
2 1 (2) Ten years have elapsed from the date of the last open
2 2 claim, claim activity, or claim payment involving the
2 3 self-insured employer or its successor in interest, whichever
2 4 is later.
2 5 c. The commissioner shall release the security upon a
2 6 finding that a self-insured employer presents acceptable

2 7 replacement security.

2 8 2. An employer seeking relief from the insurance
2 9 requirements of this chapter shall pay to the insurance
2 10 division of the department of commerce the following fees:

2 11 1. a. A fee of one hundred dollars, to be submitted
2 12 annually along with an application for relief.

2 13 2. b. A fee of one hundred dollars for issuance of the
2 14 certificate relieving the employer from the insurance
2 15 requirements of this chapter.

2 16 3. c. A fee of fifty dollars, to be submitted with each
2 17 filing required by the commissioner of insurance, including
2 18 but not limited to the annual and quarterly financial
2 19 statements, and material change statements.

2 20 3. a. If an employer becomes insolvent and a debtor under
2 21 11 U.S.C., on or after January 1, 1990, ~~this paragraph~~

~~2 22 applies. The~~ the commissioner of insurance may request of the
2 23 workers' compensation commissioner that all future payments of
2 24 workers' compensation weekly benefits, medical expenses, or
2 25 other payments pursuant to chapter 85, 85A, 85B, 86, or 87, be
2 26 commuted to a present lump sum. The workers' compensation
2 27 commissioner shall fix the lump sum of probable future medical
2 28 expenses and weekly compensation benefits, or other benefits
2 29 payable pursuant to chapter 85, 85A, 85B, 86, or 87,
2 30 capitalized at their present value upon the basis of interest
2 31 at the rate provided in section 535.3 for court judgments and
2 32 decrees. The commissioner of insurance shall be discharged
2 33 from all further liability for the commuted workers'
2 34 compensation claim upon payment of the present lump sum to
2 35 either the claimant, or a licensed insurer for purchase of an
3 1 annuity or other periodic payment plan for the benefit of the
3 2 claimant.

3 3 b. The commissioner of insurance shall not be required to
3 4 pay more for all claims of an insolvent self-insured employer
3 5 than is available for payment of such claims from the security
3 6 given under this section.

3 7 4. Notwithstanding contrary provisions of section 85.45,
3 8 any future payment of medical expenses, weekly compensation
3 9 benefits, or other payments by the commissioner of insurance
3 10 from the security given under this section, pursuant to
3 11 chapter 85, 85A, 85B, 86, or 87, shall be deemed an undue
3 12 expense, hardship, or inconvenience upon the employer for
3 13 purposes of a full commutation pursuant to section 85.45,
3 14 subsection 2.

3 15 5. Financial statements provided to the commissioner of
3 16 insurance pursuant to this section may be held as
3 17 confidential, proprietary trade secrets, pursuant to section
3 18 22.7, subsection 3, upon the request of the employer, subject
3 19 to rules adopted by the commissioner of insurance, and are not
3 20 subject to disclosure or examination under chapter 22.

3 21 Sec. 2. Section 432.1, subsection 3, Code 2007, is amended
3 22 to read as follows:

3 23 3. The applicable percent, as provided in subsection 4, of
3 24 the gross amount of premiums written, and assessments, and
3 25 fees received during the preceding calendar year by every
3 26 company or association other than life on contracts of
3 27 insurance other than life for business done in this state,
3 28 including all insurance upon property situated in this state,
3 29 after deducting the amounts returned upon canceled policies,
3 30 certificates, and rejected applications but not including the
3 31 gross premiums written, and assessments, and fees received in
3 32 connection with ocean marine insurance authorized in section
3 33 515.48.

3 34 Sec. 3. Section 502.602, subsection 3, unnumbered
3 35 paragraph 1, Code 2007, is amended to read as follows:

4 1 If a person does not appear or refuses to testify, file a
4 2 statement, produce records, or otherwise does not obey a
4 3 subpoena as required by the administrator under this chapter,
4 4 the administrator may apply to the Polk county district court
4 5 or the district court for the county in which the person
4 6 resides or is located or a court of another state to enforce

4 7 compliance. The court may do any of the following:

4 8 Sec. 4. Section 502.603, subsection 1, Code 2007, is
4 9 amended to read as follows:

4 10 1. CIVIL ACTION INSTITUTED BY ADMINISTRATOR. If the
4 11 administrator believes that a person has engaged, is engaging,
4 12 or is about to engage in an act, practice, or course of
4 13 business constituting a violation of this chapter or a rule
4 14 adopted or order issued under this chapter or that a person
4 15 has, is, or is about to engage in an act, practice, or course
4 16 of business that materially aids a violation of this chapter
4 17 or a rule adopted or order issued under this chapter, the

4 18 administrator may maintain an action in the ~~district court~~
4 19 ~~county in which the person against whom the action is being~~
4 20 ~~brought resides, has a principal place of business, or is~~
4 21 ~~doing business, or in the county where the transaction or any~~
4 22 ~~substantial portion of the transaction which is the subject of~~
4 23 ~~the action occurred, or in the county in which one or more of~~
4 24 ~~the victims of the transaction which is the subject of the~~
4 25 ~~action resides,~~ to enjoin the act, practice, or course of
4 26 business and to enforce compliance with this chapter or a rule
4 27 adopted or order issued under this chapter.

4 28 Sec. 5. Section 502.604, subsections 2 and 7, Code 2007,
4 29 are amended to read as follows:

4 30 2. SUMMARY PROCESS. An order under subsection 1 is
4 31 effective on the date of issuance. Upon issuance of the
4 32 order, the administrator shall promptly serve each person
4 33 subject to the order with a copy of the order and a notice
4 34 that the order has been entered. The order must include a
4 35 statement of any civil penalty or costs of investigation the
5 1 administrator will seek, a statement of the reasons for the
5 2 order, and notice that, within ~~fifteen~~ thirty days after
5 3 receipt of a request in a record from the person, the matter
5 4 will be scheduled for a hearing. If a person subject to the
5 5 order does not request a hearing and none is ordered by the
5 6 administrator within thirty days after the date of service of
5 7 the order, the order, including the imposition of a civil
5 8 penalty or requirement for payment of costs of investigation
5 9 sought in the order, becomes final as to that person by
5 10 operation of law. If a hearing is requested or ordered, the
5 11 administrator, after notice and opportunity for hearing to
5 12 each person subject to the order, may modify or vacate the
5 13 order or extend it until final determination.

5 14 7. ENFORCEMENT BY COURT == FURTHER CIVIL PENALTY. If a
5 15 person does not comply with an order under this section, the
5 16 administrator may petition ~~a the Polk county district court of~~
~~5 17 competent jurisdiction or the district court for the county in~~
5 18 ~~which the person resides or is located to enforce the order.~~

5 19 The court shall not require the administrator to post a bond
5 20 in an action or proceeding under this section. If the court
5 21 finds, after service and opportunity for hearing, that the
5 22 person was not in compliance with the order, the court may
5 23 adjudge the person in civil contempt of the order. The court
5 24 may impose a further civil penalty against the person for
5 25 contempt in an amount not less than three thousand dollars but
5 26 not greater than ten thousand dollars for each violation and
5 27 may grant any other relief the court determines is just and
5 28 proper in the circumstances.

5 29 Sec. 6. Section 505.8, Code 2007, is amended by adding the
5 30 following new subsections:

5 31 NEW SUBSECTION. 8. The commissioner may do any of the
5 32 following:

5 33 a. Conduct public or private investigations within or
5 34 outside of this state which the commissioner deems necessary
5 35 or appropriate to determine whether a person has violated, is
6 1 violating, or is about to violate a provision of any chapter
6 2 of this subtitle or a rule adopted or order issued under any
6 3 chapter of this subtitle, or to aid in the enforcement of any
6 4 chapter of this subtitle or in the adoption of rules and forms
6 5 under any chapter of this subtitle.

6 6 b. Require or permit a person to testify, file a
6 7 statement, or produce a record under oath or otherwise as the
6 8 commissioner determines, concerning facts and circumstances
6 9 relating to a matter being investigated or about which an
6 10 action or proceeding will be instituted.

6 11 c. Notwithstanding subsection 6, publish a record
6 12 concerning an action, proceeding, or investigation under, or a
6 13 violation of, any chapter of this subtitle or a rule adopted
6 14 or order issued under any chapter of this subtitle, if the
6 15 commissioner determines that such publication is in the public
6 16 interest and is necessary and appropriate for the protection
6 17 of the public.

6 18 NEW SUBSECTION. 9. For the purpose of an investigation
6 19 made under any chapter of this subtitle, the commissioner or
6 20 the commissioner's designee may administer oaths and
6 21 affirmations, subpoena witnesses, seek compulsory attendance,
6 22 take evidence, require the filing of statements, and require
6 23 the production of any records that the commissioner considers
6 24 relevant or material to the investigation, pursuant to rules
6 25 adopted under chapter 17A.

6 26 NEW SUBSECTION. 10. If a person does not appear or
6 27 refuses to testify, or does not file a statement or produce
6 28 records, or otherwise does not obey a subpoena or order issued

6 29 by the commissioner under any chapter of this subtitle, the
6 30 commissioner may, in addition to assessing the penalties
6 31 contained in sections 505.7A, 507B.6A, 507B.7, 522B.11, and
6 32 522B.17, make application to a district court of this state or
6 33 another state to enforce compliance with the subpoena or
6 34 order. A court to whom application is made to enforce
6 35 compliance with a subpoena or order pursuant to this subtitle
7 1 may do any of the following:
7 2 a. Hold the person in contempt.
7 3 b. Order the person to appear before the commissioner.
7 4 c. Order the person to testify about the matter under
7 5 investigation.
7 6 d. Order the production of records.
7 7 e. Grant injunctive relief, including restricting or
7 8 prohibiting the offer or sale of insurance or insurance
7 9 advice.
7 10 f. Impose a civil penalty as set forth in section 505.7A.
7 11 g. Grant any other necessary or appropriate relief.
7 12 NEW SUBSECTION. 11. This section shall not be construed
7 13 to prohibit a person from applying to a district court of this
7 14 state or another state for relief from a subpoena or order
7 15 issued by the commissioner under any chapter of this subtitle.
7 16 NEW SUBSECTION. 12. An individual shall not be relieved
7 17 of an order to appear, testify, file a statement, produce a
7 18 record or other evidence, or obey a subpoena or other order of
7 19 the commissioner made under any chapter of this subtitle on
7 20 the grounds that fulfillment of the requirement may, directly
7 21 or indirectly, tend to incriminate the individual or subject
7 22 the individual to a criminal fine, penalty, or forfeiture. If
7 23 an individual refuses to obey a subpoena or order by asserting
7 24 that individual's privilege against self-incrimination, the
7 25 commissioner may apply to the district court to compel the
7 26 individual to obey the subpoena or order of the commissioner.
7 27 Testimony, records, or other evidence that is compelled by a
7 28 court enforcing an order of the commissioner shall not be
7 29 used, directly or indirectly, against that individual in a
7 30 criminal case, except in a prosecution for perjury or contempt
7 31 or for otherwise failing to comply with the order.
7 32 NEW SUBSECTION. 13. Upon request of the insurance
7 33 regulator of another state or foreign jurisdiction, the
7 34 commissioner may provide assistance in conducting an
7 35 investigation to determine whether a person has violated, is
8 1 violating, or is about to violate an insurance law or rule of
8 2 the other state or foreign jurisdiction administered or
8 3 enforced by that insurance regulator. The commissioner may
8 4 provide such assistance pursuant to the powers conferred under
8 5 this section as the commissioner determines is necessary or
8 6 appropriate under the circumstances. Such assistance may be
8 7 provided regardless of whether the conduct being investigated
8 8 would constitute a violation of this subtitle or any other law
8 9 of this state if the conduct occurred in this state. In
8 10 determining whether to provide such assistance the
8 11 commissioner may consider whether the insurance regulator
8 12 requesting the assistance is permitted to and has agreed to
8 13 reciprocate in providing assistance to the commissioner upon
8 14 request, whether compliance with the request would violate or
8 15 prejudice the public policy of this state, and the
8 16 availability of division commissioner resources and employees
8 17 to provide such assistance.
8 18 Sec. 7. NEW SECTION. 505.27A SALE OF LIFE INSURANCE TO
8 19 MILITARY PERSONNEL.
8 20 Notwithstanding any other provision of this title, the
8 21 commissioner of insurance shall have the authority to adopt
8 22 such rules related to the sale of life insurance, other than
8 23 the servicemembers' group life insurance program under 38
8 24 U.S.C. pt. II, ch. 19, subc. III, as may be necessary to
8 25 protect military personnel located either on a United States
8 26 military installation or elsewhere in this state and to carry
8 27 out the provisions of this title.
8 28 Sec. 8. NEW SECTION. 506.13 NEW OFFICERS OR DIRECTORS ==
8 29 BIOGRAPHICAL AFFIDAVIT REQUIRED.
8 30 Within thirty days after a quarterly or annual statement of
8 31 an insurance company domiciled in this state first names an
8 32 individual as an officer or director of the company on the
8 33 jurat page of the quarterly or annual statement, the new
8 34 officer or director shall file a biographical affidavit with
8 35 the commissioner. The affidavit shall be prepared on the
9 1 current template for biographical affidavits prescribed by the
9 2 national association of insurance commissioners.
9 3 Sec. 9. Section 508.10, Code 2007, is amended to read as
9 4 follows:

9 5 508.10 FOREIGN COMPANIES == CAPITAL OR SURPLUS ==
9 6 INVESTMENTS.
9 7 1. ~~No A~~ company incorporated by or organized under the
9 8 laws of any other state or government shall not transact
9 9 business in this state unless it is possessed of the actual
9 10 amount of capital and surplus required of any company
9 11 organized by the laws of this state, or, if it be a mutual
9 12 company, of surplus equal in amount thereto, ~~and the same is~~
~~9 13 invested in bonds of the United States or of this state, or in~~
~~9 14 interest-paying bonds, when they are at or above par, of the~~
~~9 15 state in which the company is located, or of some other state,~~
~~9 16 or in notes or bonds secured by mortgages on unencumbered real~~
~~9 17 estate within this or the state where such company is located,~~
~~9 18 worth one and one-third times the amount loaned thereon, which~~
~~9 19 securities shall, at the time, be on deposit with the~~
~~9 20 commissioner of insurance, auditor, director of revenue, or~~
~~9 21 chief financial officer of the state by whose laws the company~~
~~9 22 is incorporated, or of some other state, and the commissioner~~
~~9 23 of insurance is furnished with a certificate of such officer,~~
~~9 24 under the officer's official seal, that the person as such~~
~~9 25 officer holds in trust and on deposit for the benefit of all~~
~~9 26 the policyholders of such company, the securities above~~
~~9 27 mentioned. This certificate shall embrace the items of~~
~~9 28 security so held, and show that such officer is satisfied that~~
~~9 29 such securities are worth the amount stated in the~~
~~9 30 certificate. Nothing herein contained shall invalidate the~~
~~9 31 agency of any company incorporated in another state by reason~~
~~9 32 of its having exchanged the bonds or securities so deposited~~
~~9 33 with such officer for other bonds or securities authorized by~~
~~9 34 this chapter, or by reason of its having drawn its interest~~
~~9 35 and dividends on the same.~~
10 1 2. An alien insurer, with the approval of the
10 2 commissioner, may be treated as a domestic insurer of this
10 3 state in whole or in part, and if so approved is deemed to be
10 4 organized under the laws of this state and is an Iowa domestic
10 5 insurer as provided by rules adopted by the commissioner. The
10 6 approval of the commissioner may be based upon such factors
10 7 as:
10 8 1- a. Maintenance of an appropriate trust account,
10 9 surplus account, or other financial mechanism in this state.
10 10 2- b. Maintenance of all books and records of United
10 11 States operations in this state.
10 12 3- c. Maintenance of a separate financial reporting
10 13 system for its United States operations.
10 14 4- d. Any other provisions deemed necessary by the
10 15 commissioner.
10 16 3. A foreign company authorized to do business in this
10 17 state shall not assumptively reinsure a block of business
10 18 which includes policyholders residing in this state to a
10 19 company not authorized to do business in this state without
10 20 the prior written approval of the commissioner.
10 21 Sec. 10. Section 514.4, unnumbered paragraph 2, Code 2007,
10 22 is amended to read as follows:
10 23 A subscriber director is a director of the board of a
10 24 corporation who is a subscriber and who is not a provider of
10 25 health care pursuant to section 514B.1, subsection 7, a person
10 26 who has material financial or fiduciary interest in the
10 27 delivery of health care services or a related industry, an
10 28 employee of an institution which provides health care
10 29 services, or a spouse or a member of the immediate family of
10 30 such a person. However, a subscriber director of a dental
10 31 service corporation may be an employee, officer, director, or
10 32 trustee of a hospital that does not contract with the dental
10 33 service corporation. A subscriber director of a hospital or
10 34 medical service corporation shall be a subscriber of the
10 35 services of that corporation.
11 1 Sec. 11. Section 514J.2, subsection 3, Code 2007, is
11 2 amended to read as follows:
11 3 3. "Coverage decision" means a final adverse decision
11 4 based on medical necessity. This definition does not include
11 5 a denial of coverage for a service or treatment specifically
11 6 listed in plan or evidence of coverage documents as excluded
11 7 from coverage, or a denial of coverage for a service or
11 8 treatment that has already been received and for which the
11 9 enrollee has no financial liability.
11 10 Sec. 12. Section 515.35, subsection 2, Code 2007, is
11 11 amended by adding the following new paragraph:
11 12 NEW PARAGRAPH. aa. "Capital and surplus", for purposes of
11 13 computing percentage limitations on particular types of
11 14 investments, means the capital and surplus that is authorized
11 15 to be shown as capital and surplus on the national association

11 16 of insurance commissioners' annual statement blank as of the
11 17 December 31 immediately preceding the date the company
11 18 acquires the investment.

11 19 Sec. 13. NEW SECTION. 515H.1 SHORT TITLE.
11 20 This chapter shall be known and may be cited as the
11 21 "Property and Casualty Actuarial Opinions Act".

11 22 Sec. 14. NEW SECTION. 515H.2 ACTUARIAL OPINION OF
11 23 RESERVES == SUPPORTING DOCUMENTATION.

11 24 1. STATEMENT OF ACTUARIAL OPINION. Every property and
11 25 casualty insurance company doing business in this state,
11 26 unless otherwise exempted from this requirement by the
11 27 commissioner, shall annually submit the opinion of an
11 28 appointed actuary entitled "statement of actuarial opinion"
11 29 with the company's annual statement in accordance with the
11 30 provisions of section 515.63 and with the requirements of the
11 31 national association of insurance commissioners' property and
11 32 casualty annual statement instructions.

11 33 2. ACTUARIAL OPINION SUMMARY.

11 34 a. Every property and casualty insurance company domiciled
11 35 in this state that is required to submit a statement of
12 1 actuarial opinion shall annually submit an actuarial opinion
12 2 summary, prepared and signed by the company's appointed
12 3 actuary. The actuarial opinion summary shall be filed in
12 4 accordance with the requirements of the national association
12 5 of insurance commissioners' property and casualty company
12 6 annual statement instructions and shall be considered a
12 7 document in support of the statement of actuarial opinion
12 8 required under subsection 1.

12 9 b. A property and casualty insurance company that is
12 10 licensed but not domiciled in this state shall provide an
12 11 actuarial opinion summary upon request of the commissioner.

12 12 3. ACTUARIAL REPORT AND WORK PAPERS.

12 13 a. An actuarial report and supporting work papers shall be
12 14 prepared to support each statement of actuarial opinion in
12 15 accordance with the requirements of the national association
12 16 of insurance commissioners' property and casualty company
12 17 annual statement instructions.

12 18 b. If an insurance company fails to provide a supporting
12 19 actuarial report and work papers as requested by the
12 20 commissioner or the commissioner determines that the actuarial
12 21 report or work papers provided are unacceptable, the
12 22 commissioner may engage a qualified actuary at the company's
12 23 expense to review the statement of actuarial opinion and the
12 24 basis for the opinion and to prepare a supporting actuarial
12 25 report or work papers.

12 26 4. An appointed actuary shall not be liable for damages to
12 27 any person, except the company and the insurance commissioner,
12 28 for any act, error, omission, decision, or misconduct of the
12 29 appointed actuary in conducting the actuary's duties pursuant
12 30 to this section except in cases of fraud or willful misconduct
12 31 on the part of the appointed actuary.

12 32 Sec. 15. NEW SECTION. 515H.3 CONFIDENTIALITY.

12 33 1. A statement of actuarial opinion filed pursuant to
12 34 section 515H.2, subsection 1, is a public record subject to
12 35 examination and copying.

13 1 2. Documents in the possession or control of the insurance
13 2 division that are provided to the division in support of a
13 3 statement of actuarial opinion, that are considered an
13 4 actuarial report, work papers, an actuarial opinion summary,
13 5 or any other material provided by the company in connection
13 6 with the actuarial report, work papers, or actuarial opinion
13 7 summary are confidential records under section 507.14 and
13 8 shall not be subject to subpoena or discovery or be admissible
13 9 in evidence in any private civil action.

13 10 3. Disclosure of any documents, materials, or information
13 11 to the division in compliance with the requirements of this
13 12 chapter shall not be considered a waiver of any applicable
13 13 privilege or claim of confidentiality.

13 14 Sec. 16. Section 516E.3, subsection 2, paragraph a, Code
13 15 2007, is amended by striking the paragraph.

13 16 Sec. 17. Section 518.14, subsection 2, Code 2007, is
13 17 amended by adding the following new paragraph:

13 18 NEW PARAGRAPH. h. "Surplus", for purposes of computing
13 19 percentage limitations on particular types of investments,
13 20 means the surplus that is authorized to be shown on the
13 21 commissioner's annual statement blank as surplus as of the
13 22 December 31 immediately preceding the date the association
13 23 acquires the investment.

13 24 Sec. 18. Section 518A.1, subsection 1, paragraph d, Code
13 25 2007, is amended to read as follows:

13 26 d. Any ~~automobile~~ vehicle, excluding automobile or

13 27 aircraft ~~or other vehicle~~, including loss, ~~and expense, or~~
13 28 ~~liability~~ resulting from the ownership, maintenance, or use
13 29 thereof, but shall not include insurance against bodily injury
13 30 to the person.

13 31 Sec. 19. Section 518A.12, subsection 2, Code 2007, is
13 32 amended by adding the following new paragraph:

13 33 NEW PARAGRAPH. h. "Surplus", for purposes of computing
13 34 percentage limitations on particular types of investments,
13 35 means the surplus that is authorized to be shown on the
14 1 commissioner's annual statement blank as surplus as of the
14 2 December 31 immediately preceding the date the association
14 3 acquires the investment.

14 4 Sec. 20. Section 520.9, subsection 1, Code 2007, is
14 5 amended to read as follows:

14 6 1. There shall at all times be maintained as assets a sum
14 7 in cash, or in securities of the kind designated by the laws
14 8 of the state where the principal office is located for the
14 9 investment of funds of insurance companies, equal to one
14 10 hundred percent of the net unearned premiums or deposits
14 11 collected and credited to the account of subscribers, or
14 12 assets equal to fifty percent of the net annual deposits
14 13 collected and credited to the account of subscribers on
14 14 policies having one year or less to run and pro rata on those
14 15 for longer periods; in addition to which there shall be
14 16 maintained in cash, or in such securities, assets sufficient
14 17 to discharge all liabilities on all outstanding losses arising
14 18 under policies issued, the same to be calculated in accordance
14 19 with the laws of the state relating to similar reserves for
14 20 companies insuring similar risks; provided that where the
14 21 assets on hand available for the payment of losses other than
14 22 determined losses, do not equal ~~two five~~ million dollars, all
14 23 liability for each determined loss or claim deferred for more
14 24 than one year, shall be provided for by a special deposit in a
14 25 trust company or bank having fiduciary powers of the state in
14 26 which the principal office is located, to be used in payment
14 27 of compensation benefits for disability; such deposit to be a
14 28 trust fund and applicable only to the purposes stated, or such
14 29 liability may be reinsured in authorized companies with a
14 30 surplus of at least ~~two five~~ million dollars. For the purpose
14 31 of such reserves, net deposits shall be construed to mean the
14 32 advance payments of subscribers after deducting the amount
14 33 specifically provided in the subscribers' agreements for
14 34 expenses. If at any time the assets so held in cash or such
14 35 securities shall be less than required above, or less than ~~two~~
15 1 ~~five~~ million dollars, the subscribers or their attorney for
15 2 them shall make up the deficiency within thirty days after
15 3 notice from the commissioner of insurance to do so. In
15 4 computing the assets required by this section, the amount
15 5 specified in section 520.4, subsection 7, shall be included.

15 6 Sec. 21. Section 521.2, subsection 4, Code 2007, is
15 7 amended to read as follows:

15 8 4. A domestic ~~mutual~~ insurance company shall not assume or
15 9 reinsure the whole or any part of the risks of any other
15 10 company, except as provided in this chapter. However, this
15 11 chapter shall not be construed to prevent any company, as
15 12 defined in section 521.1, from reinsuring a fractional part of
15 13 any risk.

15 14 Sec. 22. Section 522B.6, subsection 3, Code 2007, is
15 15 amended to read as follows:

15 16 3. An insurance producer license remains in effect unless
15 17 revoked or suspended as long as all required fees are paid and
15 18 continuing education requirements for resident individual
15 19 insurance producers are met by any applicable due date.
15 20 Resident individual insurance producers are required to
15 21 complete continuing education requirements in order to be
15 22 eligible for license renewal unless exempted from such
15 23 requirements under this chapter or by rule.

15 24 Sec. 23. NEW SECTION. 522C.1 PURPOSE.
15 25 The purpose of this chapter is to govern the qualifications
15 26 and procedures for licensing public adjusters in this state,
15 27 and to specify the duties of and restrictions on public
15 28 adjusters, including limitation of such licensure to assisting
15 29 insureds only with first-party claims.

15 30 Sec. 24. NEW SECTION. 522C.2 DEFINITIONS.

15 31 As used in this chapter, unless the context otherwise
15 32 requires:

15 33 1. "Business entity" means a corporation, association,
15 34 partnership, limited liability company, limited liability
15 35 partnership, or any other legal entity.

16 1 2. "Commissioner" means the commissioner of insurance.

16 2 3. "Fingerprints" means an impression of the lines on a

16 3 human finger taken for the purposes of identification. The
16 4 impression may be electronic or in ink converted to an
16 5 electronic format.

16 6 4. "First-party claim" means a claim filed by a person
16 7 insured under the insurance policy against which the claim is
16 8 made.

16 9 5. "Individual" means a natural person.

16 10 6. "Person" means an individual or a business entity.

16 11 7. "Public adjuster" means any person who for compensation
16 12 or any other thing of value acts on behalf of an insured by
16 13 doing any of the following:

16 14 a. Acting for or aiding an insured in negotiating for or
16 15 effecting the settlement of a first-party claim for loss or
16 16 damage to real or personal property of the insured.

16 17 b. Advertising for employment as a public adjuster of
16 18 first-party insurance claims or otherwise soliciting business
16 19 or representing to the public that the person is a public
16 20 adjuster of first-party insurance claims for loss or damage to
16 21 real or personal property of an insured.

16 22 c. Directly or indirectly soliciting business
16 23 investigating or adjusting losses, or advising an insured
16 24 about first-party claims for loss or damage to real or
16 25 personal property of the insured.

16 26 8. "Uniform business entity application" means the current
16 27 version of the national association of insurance
16 28 commissioners' uniform business entity application for
16 29 resident and nonresident business entities.

16 30 9. "Uniform individual application" means the current
16 31 version of the national association of insurance
16 32 commissioners' uniform individual application for resident and
16 33 nonresident individuals.

16 34 Sec. 25. NEW SECTION. 522C.3 AUTHORITY OF THE
16 35 COMMISSIONER.

17 1 1. The commissioner shall adopt rules pursuant to chapter
17 2 17A as necessary to administer and enforce this chapter.

17 3 2. The commissioner shall adopt rules including but not
17 4 limited to all of the following:

17 5 a. Advertising standards.

17 6 b. Continuing education requirements for licensees.

17 7 c. Contracts between public adjusters and insureds.

17 8 d. Required disclosures by licensees.

17 9 e. Examinations for licensure.

17 10 f. Exemptions.

17 11 g. License bonds and errors and omissions insurance
17 12 requirements.

17 13 h. License requirements and exclusions.

17 14 i. Prohibited practices.

17 15 j. Record retention requirements.

17 16 k. Reporting requirements.

17 17 l. Requirements and limitations on fees charged by public
17 18 adjusters.

17 19 m. Standards for reasonableness of payment.

17 20 n. Standards of conduct.

17 21 o. Penalties.

17 22 Sec. 26. NEW SECTION. 522C.4 LICENSE REQUIRED.

17 23 A person shall not operate as or represent that the person
17 24 is a public adjuster in this state unless the person is
17 25 licensed by the commissioner in accordance with this chapter.

17 26 Sec. 27. NEW SECTION. 522C.5 APPLICATION FOR LICENSE.

17 27 1. A person applying for a public adjuster license shall
17 28 make application on a uniform individual application or
17 29 uniform business entity application as prescribed by the
17 30 commissioner pursuant to rules adopted under chapter 17A.

17 31 2. In determining eligibility for licensure under this
17 32 chapter, the commissioner shall require each individual
17 33 applying for a public adjuster license to submit a full set of
17 34 fingerprints with the application. The commissioner shall
17 35 also require each business entity applying for licensure under
18 1 this chapter to submit a full set of fingerprints for each
18 2 individual who will be acting as a public adjuster on behalf
18 3 of the business entity. The commissioner shall conduct a
18 4 state and national criminal history record check on each
18 5 applicant. The commissioner is authorized to submit
18 6 fingerprints and any required fees to the state department of
18 7 public safety, the state attorney general, and the federal
18 8 bureau of investigation for the performance of such criminal
18 9 record checks.

18 10 a. The commissioner may contract for the collection,
18 11 transmission, and resubmission of fingerprints required under
18 12 this section and may contract for a reasonable fingerprinting
18 13 fee to be charged by the contractor for these services. Any

18 14 fees for the collection, transmission, and retention of
18 15 fingerprints submitted pursuant to this subsection shall be
18 16 paid directly to the contractor by the applicant.
18 17 b. The commissioner may waive submission of fingerprints
18 18 by any person who has previously furnished fingerprints if
18 19 those fingerprints are on file with the central repository of
18 20 the national association of insurance commissioners, its
18 21 affiliates, or subsidiaries.
18 22 c. The commissioner may receive criminal history record
18 23 information concerning an applicant that was requested by the
18 24 state department of justice directly from the federal bureau
18 25 of investigation.
18 26 d. The commissioner may submit electronic fingerprint
18 27 records and necessary identifying information to the national
18 28 association of insurance commissioners, its affiliates, or
18 29 subsidiaries for permanent retention in a centralized
18 30 repository whose purpose is to provide state insurance
18 31 commissioners with access to fingerprint records in order to
18 32 perform criminal history record checks.
18 33 Sec. 28. NEW SECTION. 522C.6 PENALTIES.
18 34 1. The commissioner may place on probation, suspend,
18 35 revoke, or refuse to issue or renew a public adjuster's
19 1 license or may levy a civil penalty as provided in section
19 2 505.7A if a licensed public adjuster is found after hearing to
19 3 be in violation of the requirements of this chapter or rules
19 4 adopted or orders issued pursuant to this chapter.
19 5 2. A person acting as a public adjuster without proper
19 6 licensure or a public adjuster who willfully violates any
19 7 provision of this chapter or any rule adopted or order issued
19 8 under this chapter is guilty of a serious misdemeanor.
19 9 Sec. 29. Sections 523.5 and 523.6, Code 2007, are
19 10 repealed.

19 11 EXPLANATION

19 12 This bill relates to various matters under the purview of
19 13 the insurance division of the department of commerce.
19 14 WORKERS' COMPENSATION == RELEASE OF SECURITY. Code section
19 15 87.11 is amended to allow an employer that is self-insured for
19 16 workers' compensation purposes and discontinues its
19 17 self-insured status or enters bankruptcy proceedings to
19 18 petition the insurance commissioner for a release of its
19 19 security under specified circumstances. The commissioner is
19 20 also required to release security upon a finding that a
19 21 self-insured employer has acceptable replacement security.
19 22 PREMIUM TAXES. Code section 432.1 is amended to specify
19 23 that an insurance company or association other than life is
19 24 required to pay taxes based on a percentage of gross premiums
19 25 written instead of gross premiums.
19 26 UNIFORM SECURITIES ACT. Code section 502.602 is amended to
19 27 allow an administrator to seek remedies for noncompliance with
19 28 the chapter by application to the Polk county district court
19 29 or the district court for the county in which the person
19 30 resides or is located.
19 31 Code section 502.603 is amended to authorize an
19 32 administrator to maintain an action for civil enforcement in
19 33 the county in which the person against whom the action is
19 34 being brought resides, has a principal place of business, or
19 35 is doing business, or in the county where the transaction or
20 1 any substantial part of the transaction which is the subject
20 2 of the action occurred, or in the county in which one or more
20 3 of the victims of the transaction which is the subject of the
20 4 action resides.
20 5 Code section 502.604 is amended to provide that a hearing
20 6 will be scheduled within 30 instead of 15 days after an
20 7 administrator receives a request for hearing and to authorize
20 8 the administrator to petition for enforcement of an
20 9 administrative order against a person in the Polk county
20 10 district court or the district court for the county in which
20 11 the person resides or is located.
20 12 INSURANCE DIVISION POWERS AND DUTIES. Code section 505.8
20 13 is amended to authorize the commissioner of insurance to do
20 14 the following: (1) conduct certain public or private
20 15 investigations within or outside of this state, require or
20 16 permit certain persons to provide information concerning
20 17 matters being investigated or actions or proceedings to be
20 18 instituted, and publish records as the commissioner deems
20 19 appropriate for the protection of the public; (2) administer
20 20 oaths and affirmations, subpoena witnesses, compel attendance,
20 21 take evidence, and require statements and production of
20 22 records in connection with an investigation; (3) assess
20 23 penalties and seek judicial enforcement of subpoenas or orders
20 24 issued by the commissioner; (4) require a person to comply

20 25 with an order even if compliance may directly or indirectly
20 26 incriminate the individual or subject the individual to
20 27 criminal fines, penalties, or forfeiture so long as the
20 28 testimony, records, or evidence compelled is not used against
20 29 the individual in a criminal case; and (5) assist insurance
20 30 regulators in other states or foreign jurisdictions with their
20 31 investigations of insurance law violations under specified
20 32 circumstances.

20 33 SALE OF LIFE INSURANCE TO MILITARY PERSONNEL. New Code
20 34 section 505.27A authorizes the commissioner of insurance to
20 35 adopt rules related to the sale of life insurance, other than
21 1 the federal servicemembers' group life insurance program, as
21 2 necessary to protect military personnel located either on a
21 3 United States military installation or elsewhere in the state
21 4 and to carry out the provisions of Iowa insurance law and
21 5 related rules.

21 6 DOMESTIC INSURANCE COMPANIES == BIOGRAPHICAL AFFIDAVITS.
21 7 New Code section 506.13 requires new officers or directors of
21 8 an insurance company domiciled in Iowa to file a biographical
21 9 affidavit with the insurance commissioner within 30 days after
21 10 a quarterly or annual statement of the company first names the
21 11 individual as an officer or director of the company on the
21 12 jurat page of the quarterly or annual statement.

21 13 Code section 508.10 is amended to eliminate the requirement
21 14 that foreign life insurance companies doing business in Iowa
21 15 maintain on deposit an amount equal to their minimum capital
21 16 and surplus requirements.

21 17 NONPROFIT HEALTH SERVICE CORPORATIONS. Code section 514.4
21 18 is amended to provide that a subscriber director of a dental
21 19 service corporation may be an employee, officer, director, or
21 20 trustee of a hospital that does not contract with the dental
21 21 service corporation.

21 22 EXTERNAL REVIEW OF HEALTH CARE COVERAGE DECISIONS. Code
21 23 section 514J.2 is amended to provide that a "coverage
21 24 decision" for which there is a right of appeal pursuant to
21 25 Code chapter 514J does not include a denial of coverage for a
21 26 service or treatment that has already been received and for
21 27 which the enrollee has no financial liability.

21 28 INSURANCE OTHER THAN LIFE == INVESTMENT LIMITATIONS. Code
21 29 section 515.35 is amended by adding a definition of what
21 30 constitutes "capital and surplus" for purposes of computing
21 31 percentage limitations on particular types of investments by
21 32 insurance companies other than life insurers.

21 33 PROPERTY AND CASUALTY INSURANCE == ACTUARIAL OPINION OF
21 34 RESERVES. New Code chapter 515H requires every property and
21 35 casualty insurance company doing business in Iowa, unless
22 1 otherwise exempted, to annually submit a statement of
22 2 actuarial opinion and an actuarial opinion summary by an
22 3 appointed actuary with the company's annual statement as
22 4 prescribed in the new Code chapter. The new Code chapter also
22 5 provides that a statement of actuarial opinion filed with the
22 6 company's annual statement is a public record, although other
22 7 documents filed in support of the statement such as the
22 8 actuarial report, work papers, and the actuarial opinion
22 9 summary are considered confidential records under Code section
22 10 507.14.

22 11 MOTOR VEHICLE SERVICE CONTRACTS. Code section 516E.3 is
22 12 amended by striking the requirement that the provider of a
22 13 motor vehicle service contract file a copy of the contract
22 14 with the commissioner of insurance since the service company
22 15 that issues the contract is already required to file such a
22 16 copy.

22 17 COUNTY MUTUAL INSURANCE ASSOCIATIONS. Code section 518.14
22 18 is amended to include a definition of what constitutes
22 19 "surplus" for purposes of computing percentage limitations on
22 20 particular types of investments by county mutual insurance
22 21 associations.

22 22 STATE MUTUAL INSURANCE ASSOCIATIONS. Code section 518A.1
22 23 is amended to prohibit state mutual insurance associations
22 24 from providing liability and property insurance for loss and
22 25 expense resulting from the ownership, maintenance, or use of
22 26 automobiles or aircraft.

22 27 Code section 518A.12 is amended to include a definition of
22 28 what constitutes "surplus" for purposes of computing
22 29 percentage limitations on particular types of investments by
22 30 state mutual insurance associations.

22 31 RECIPROCAL OR INTERINSURANCE CONTRACTS. Code section 520.9
22 32 is amended to require designated subscribers that are
22 33 authorized to exchange reciprocal or interinsurance contracts
22 34 to provide special trust deposits where assets for the payment
22 35 of certain losses do not equal \$5 million and to require that

23 1 reinsurance be secured in an authorized company with a surplus
23 2 of at least \$5 million. Currently, the required minimum
23 3 amounts are \$2 million.
23 4 CONSOLIDATION, MERGER, AND REINSURANCE. Code section 521.2
23 5 is amended to provide that a domestic insurance company,
23 6 instead of a domestic mutual insurance company, shall not
23 7 assume or reinsure the risks of any other company, except as
23 8 provided in Code chapter 521.
23 9 LICENSING OF INSURANCE PRODUCERS. Code section 522B.6 is
23 10 amended to require resident individual insurance producers to
23 11 complete continuing education requirements in order to be
23 12 eligible for license renewal unless otherwise exempted from
23 13 such requirements.
23 14 LICENSING OF PUBLIC ADJUSTERS. New Code chapter 522C
23 15 governs qualifications and procedures for licensing public
23 16 adjusters in this state, and specifies duties and restrictions
23 17 on public adjusters, including limitation of their licensure
23 18 to assisting insureds with first-party claims.
23 19 The bill authorizes the commissioner to place on probation,
23 20 suspend, revoke, or refuse to issue or renew the license of or
23 21 levy a civil penalty as provided in Code section 505.7A
23 22 against a person who violates the requirements of the new Code
23 23 chapter or rules or orders issued pursuant to the chapter.
23 24 Acting as a public adjuster without a license or willful
23 25 violations of the new Code chapter or rules or orders issued
23 26 pursuant to the Code chapter are classified as serious
23 27 misdemeanors. A serious misdemeanor is punishable by
23 28 confinement for no more than one year and a fine of at least
23 29 \$315 but not more than \$1,875.
23 30 INSURANCE COMPANY BOARD OF DIRECTORS == PROPORTIONATE
23 31 REPRESENTATION. Code sections 523.5 and 523.6 which allow
23 32 proportionate representation of certain minority shareholders
23 33 on the board of directors of certain life or fire insurance
23 34 companies are repealed.
23 35 LSB 1235HV 82
24 1 av:rj/gg/14